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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,332	06/29/2005	Paul McDonald	CE30944P	8249
22917	7590	05/28/2008		
MOTOROLA, INC. 1303 EAST ALGONQUIN ROAD IL01/3RD SCHAUMBURG, IL 60196				
EXAMINER				
LEE, JUSTIN YE				
ART UNIT		PAPER NUMBER		
2617				
NOTIFICATION DATE		DELIVERY MODE		
05/28/2008		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.Schaumburg@motorola.com
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Office Action Summary

Application No.

10/541,332

Applicant(s)

MCDONALD ET AL.

Examiner

Justin Y. Lee

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 13-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 13-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 June 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-8508)
- Paper No(s)/Mail Date ____.

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Drawings

1. Figure 4 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1, 2, 5-7, 13 and 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tontiruttananon et al. (US 7,107,061 B1) in view of Casaccia et al. (US 2002/0177432 A1).

Consider claim 1, Tontiruttananon et al. disclose a wireless communication system (Fig. 3, telecommunication network 50) comprising:

A plurality of mobile stations (Fig. 3, mobile device 68, 69) utilizing the communication resources (col. 4, lines 15-27),

A plurality of communication paths for routing a communication initiated by one of said plurality of mobile stations to a designation node (Fig. 3 and col. 4, lines 28-35).

Tontiruttananon et al. also disclose using call gapping for overload control (col. 1, lines 33-35).

Tontiruttananon et al. do not disclose wherein at least one of the plurality of mobile station is configured to employ a call gapping process.

Casaccia et al. further disclose wherein at least one of the plurality of mobile station is configured to employ a call gapping process (paragraph 37-39, mobile station performs the call blocking).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Casaccia et al. in to the teachings of Tontiruttananon et al. for the purposes of providing for efficient control of call requests in a communication system (paragraph 14).

Consider claim 2, Casaccia et al. further disclose wherein said call gapping process employed by said at least one of said plurality of mobile station is performed prior to normal

communication, preventing a call that would likely be unsuccessful from being initiated and sent from said mobile station (paragraph 37-39, the call is blocked before it is initiated).

Consider claim 5, Casaccia et al. further disclose wherein said at least one of said plurality of mobile stations is sent a wireless message containing at least one call gapping instruction (paragraph 37-39, the instruction is sent from a BS to a MS).

Consider claim 6, Casaccia et al. and Tontiruttananon et al. together disclose wherein said at least one call gapping instruction is selected from one of the group of: (i) one or more address of a destination node; (ii) one or more telephone numbers; (iii) one or more call blocking rate; and (iv) a time-out value (Casaccia, paragraph 37-39 and Tontiruttananon et al. col. 3, lines 34-67).

Consider claim 7, Casaccia further disclose wherein said wireless communication system is one of a GSM, GPRS, UMTS, IS-95, and CDMA2000 communication system, and a personal computer employing voice over Internet Protocol (paragraph 4 and 13).

Consider claims 13 and 16-17, claims 13 and 16-17 having the same limitation as claims 1 and 5-6. Therefore, please see rejection to claims 1 and 5-6 for rejection details.

4. Claims 3 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tontiruttananon et al. (US 7,107,061 B1) in view of Casaccia et al. (US 2002/0177432 A1) as applied to claims 2 and 13 and further in view of Horton (US 6,987,736 B1).

Consider claims 3 and 14, Tontiruttananon et al. and Casaccia et al. do not disclose wherein following a requested call being prevented from accessing the wireless communication system, an indication is provided to a user that the communication system is busy.

Horton further discloses wherein following a requested call being prevented from accessing the wireless communication system, an indication is provided to a user that the communication system is busy (col. 2, lines 10-15).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Horton in to the teachings of Tontiruttananon et al. and Casaccia et al. for the purposes of notifying the user of the status of the network (col. 2, lines 40-45).

5. Claims 4 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tontiruttananon et al. (US 7,107,061 B1) in view of Casaccia et al. (US 2002/0177432 A1) as applied to claims 1 and 13 and further in view of Applicant Admitted Prior Art (hereinafter, AAPA).

Consider claims 4 and 15, Tontiruttananon et al. and Casaccia et al. together disclose call gapping (Tontiruttananon et al., col. 1, lines 33-35) and instructs the MS to initiate a self-regulating call gapping process (Casaccia et al., paragraph 37-39).

Tontiruttananon et al. and Casaccia et al. do not disclose wherein said communication system further comprises a communication device that determines when one or more address or destination node is overloaded.

AAPA further disclose wherein said communication system further comprises a communication device that determines when one or more address or destination node is overloaded (page 4-8).

Therefore, it would have been obvious to one ordinary skill in the art at the time the invention was made to utilize the teachings of Horton in to the teachings of Tontiruttananon et al. and Casaccia et al. for the purposes of effectively controlling mass calling situations (page 4, lines 27-28).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin Y. Lee whose telephone number is (571) 272-5258. The examiner can normally be reached on M - Thu 7:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on 571-272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Justin Lee
AU 2617
5/15/08

/Duc Nguyen/

Supervisory Patent Examiner, Art Unit 2617